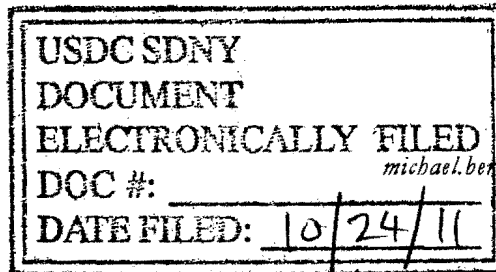


MEMO ENDORSED

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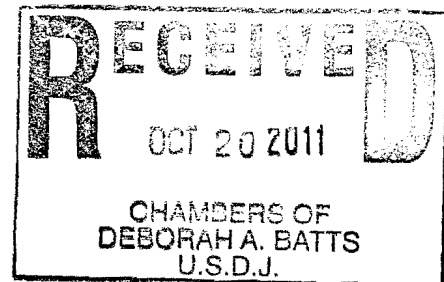
October 19, 2011

Via Hand Delivery

Hon. Deborah A. Batts
United States District Court Judge
United States District Court For The
Southern District Of New York
500 Pearl St.
New York, NY 10007-1312

Re: *Dominique Demonchaux v. United Healthcare et al.*
Civ. Act. No. 10 Civ. 4491 (DAB)
Our File No.: 03246-000087

Dear Judge Batts:



This office represents the Defendant Oxford Health Plans (NY), Inc. ("Oxford") individually and s/h/a Unitedhealthcare Oxford in this action, wherein Plaintiff Dominique Demonchaux ("Demonchaux") is seeking mental health benefits under an employee welfare benefit plan governed by the Employee Retirement Income and Security Act of 1974, 29 U.S.C. §1001, *et seq.* ("ERISA").

We write to follow up with respect to our letter request dated October 13, 2011 for leave to file a motion pursuant to Rules 37(c) and 56(e), FED. R. CIV. P., for an order striking certain improper extra-record submissions in Demonchaux's opposition to Oxford's pending motion for summary judgment.

The Court acknowledged receipt of our letter dated October 13, 2011 and asked Demonchaux's counsel to submit a response to our letter by October 17, 2011. However, Demonchaux's counsel did not submit a response. Since Demonchaux has not opposed our request, we respectfully request that this Court grant us leave to file our motion to strike Demonchaux's improper extra-record submissions in her opposition to Oxford's motion for summary judgment and to set a briefing schedule for when the motion papers are due. If leave is granted, we will file our motion within ten days of the date of the order.

Thank you for your consideration of this matter.

Respectfully submitted,

Michael H. Bernstein
Michael H. Bernstein
Sedgwick LLP

cc: Lisa S. Kantor, Esq.
Scott M. Riemer, Esq.

SO ORDERED

Deborah A. Batts
DEBORAH A. BATTIS
UNITED STATES DISTRICT JUDGE

10/24/11

MEMO ENDORSED
GRANTED
Motion to strike
to be filed 11/9/11;
Response due
12/2/11;
Reply due 12/19/11.
1/5/DAB
10/24/11

MEMO ENDORSED